

OFFICE OF
THE INSPECTOR OF BUILDINGS

Municipal Building
350 Main St., Webster, MA. 01570
Phone: (508) 949-3800 Ext. 4005 Fax: 508-949-0845

ORDER LETTER

Theodore Tetreault III
Building Inspector

HAND - DELIVERY

Jennifer Sullivan
Health Inspector

June 29, 2015

35 Pearl St. LLC
c/o Walter G. Mahla, Manager
725 Quaker Highway
Uxbridge, MA. 01569

Re: Unsafe Condition

On June 25, 2015 a fire occurred on three properties destroying two properties and causing significant damage to a third structure. After careful inspection of the damage and condition of the structure on 35 Pearl St. and 7 Railroad it was found that the structures were damaged beyond safe limits.

The IBC section 116.1 thru 116.4 states "unsafe structures shall be taken down and removed or made safe as the Building Official deems necessary and as provided for in this section."

The MGL chapter 143 section 6 states "

The unsafe conditions of this property caused by the fire makes it unrepairable, unsafe for the reasons of falling debris, heavy steel, deep and open foundations and easily accessible.

You are hereby ordered to take immediate steps to:


- **Remove structures**
- **Destroy all concrete floors to prevent pooling of water**
- **Grind any concrete or brick into a size six (6) inch or minus to use as fill**
- **Collapse all side walls**
- **Fill site to restore back to existing grade**
- **All steel, wood and excessive debris must be removed from site and disposed of properly.**
- **This office requires evidence of where the debris was taken to insure the proper disposal of material.**

Failure to do so by July 10, 2015 following your receipt of this notice, you will be subject to fines pursuant to the State Building Code (780 C.M.R. 118.4) "Of not more than One Thousand Dollars (\$1,000) or by imprisonment for not more than one year, or both for each such violation. Each day during which a violation exists shall constitute a separate offense." Furthermore, failure to comply with this Order will result in the appropriate legal action being filed in Court, in which we will seek the maximum fines allowed by law.

You are hereby requested to maintain a safe distance outside the property limits while demolition proceeds and until completion.

Also, as the owner you must secure the premises from entry by unauthorized persons as required by Massachusetts General Laws chapter 143, section 6, and 527 C.M.R. 10.13.1.

Sincerely,



Theodore Tetreault III
Building Official
Zoning Agent

Cc: Ms. Pamela Regis – Acting Town Administrator
Mr. Brian Hickey – Fire Chief
Ms. Jennifer Sullivan – Health Inspector



Doherty, Ciechanowski,
Dugan & Cannon, P.C.

124 Grove Street, Suite 220
Franklin, MA 02038
TEL. NO. (508) 541-3000
FAX NO. (508) 541-3008

Michael P. Doherty
mpd@dcdclaw.com

June 29, 2015

Via Facsimile and Certified Mail – Return Receipt Requested

Mr. Theodore Tetreault, III, Building Inspector
Town of Webster
350 Main Street
Webster, MA 01570

RE: 35 Pearl Street LLC, 35 Pearl Street, Webster, MA

Dear Mr. Tetreault:

As you know from our conversations, this Firm represents 35 Pearl Street LLC. As we discussed earlier today, I am in receipt of your letter of June 29, 2015, which purports to order 35 Pearl Street to take certain actions pursuant to M.G.L. Ch. 143, Section 6 and the "IBC section 116.1 – 116.4".

As I discussed with you, 35 Pearl Street LLC objects to your letter on numerous grounds. Your letter is unclear, vague and overly broad. As I mentioned to you, my client understood that you were ordering 35 Pearl Street LLC to enter onto the property at "7 Railroad" to demolish the building there. When you and I spoke, you stated that the Order did not seek that 35 Pearl Street LLC enter onto the property at 7 Railroad. Please confirm this in writing.

As I also mentioned to you, my understanding is that there is an ongoing arson investigation such that portions of the building at 35 Pearl Street LLC are an active crime scene that the arson investigators and State Fire Marshal did not wish to be touched, let alone demolished. When I brought this to your attention, you confirmed that the arson investigation was ongoing but that you believed that the arson investigation would be over soon. You agreed to inform me when 35 Pearl Street LLC would be allowed to demolish the sections of the building that are now part of the arson investigation.

As we also discussed, there is a concern that there is or there may be asbestos at the property such that waivers must be obtained from the Department of Environmental Protection ("DEP") before further demolition activity can continue or before any property may be removed from the site. You agreed that this was, in fact, the case and agreed that waivers would be required from the DEP before 35 Pearl Street LLC could comply with your Order.

After I spoke with you, I spoke with Attorney Anne Blackman from DEP and Greg Levins from DEP. I informed them about our conversation. Mr. Levins stated that 35 Pearl

Mr. Theodore Tetreault, III, Building Inspector
June 29, 2015
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Street LLC should not comply with your Order, and he asked me to invite you to telephone him. Mr. Levins' telephone number is (508) 767-2768.

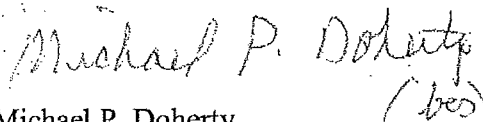
We also discussed the fact that you wished to protect the interests of the Town of Webster to secure the site. I informed you, and you confirmed, that 35 Pearl Street LLC had a fence company on site today to repair the fence around the property to secure the site.

In addition, you agreed with me that 35 Pearl Street LLC has had demolition contractors on site per your order since the fire and has been taking the actions you asked of it.

Given all the foregoing, I ask that you withdraw your Order Letter. As I told you, if you do not withdraw your Order Letter, I will be forced to file a lawsuit to appeal it with the Superior Court. I hope that will not be necessary and, instead, that we can work together in a cooperative fashion to protect the interests of the Town of Webster and comply with all applicable laws, including any law requiring that the appropriate permits be obtained from DEP to allow the proper removal of debris from the site.

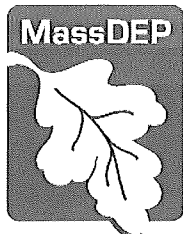
Please let me hear from you regarding this matter.

Very truly yours,


Michael P. Doherty

MPD/bcs

cc: Anne Blackman, Esq. Department of Environmental Protection (*Via Email*)
Mr. Walter Mahla, Manager of 35 Pearl Street LLC (*Via Email*)



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

June 30, 2015

VIA EMAIL

Michael P. Doherty, Esq.
Doherty, Ciechanowski, Dugan & Cannon, P.C.
124 Grove Street, Suite 220
Franklin, MA 02038

Dear Attorney Doherty:

I am writing to correct the record with regard to the telephone conversation that you had yesterday with me and my colleague, Gregg Levins. In your June 29, 2015 letter to Theodore Tetreault, the Building Inspector for the town of Webster, you wrote that "Mr. Levins stated that 35 Pearl Street LLC should not comply with your Order, and he asked me to invite you to telephone him." During our conversation, however, Mr. Levins never stated that your client should not comply with the Order issued by the Webster Building Inspector with respect to the remains of the building at 35 Pearl Street in Webster, Massachusetts (the "Site"). Mr. Levins did state that your client needs to comply with the requirements of the Massachusetts Air Quality Regulations concerning asbestos in addressing the Site. He also informed you that an asbestos survey needs to be conducted at the Site prior to the grinding up or removal of debris from the Site. Finally, Mr. Levins advised that your client will need to submit a Non-Traditional Asbestos Abatement Work Plan to MassDEP to gain approval to remove and dispose of asbestos-contaminated material and asbestos-contaminated waste material at the Site.

MassDEP is working collaboratively with the town of Webster to address the Site and is not in any way attempting to prevent the town from enforcing bylaws or issuing orders. It is our expectation that your client will coordinate the necessary asbestos abatement activities with the cleanup actions ordered by the town.

Sincerely,

Anne Berlin Blackman
Acting Chief Regional Counsel

This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

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